

# BUDGET LETTER

<b>SUBJECT:</b> CONTROL SECTION 11.00—CONTRACTS ASSOCIATED WITH INFORMATION TECHNOLOGY PROJECTS CONTROL SECTION 11.10—STATEWIDE SOFTWARE LICENSE AGREEMENTS	<b>NUMBER:</b> 08-31  <b>DATE ISSUED:</b> November 24, 2008
<b>REFERENCES:</b> BUDGET ACT OF 2008 (CHAPTERS 268 AND 269, STATUTES OF 2008)	<b>SUPERSEDES:</b> BL 06-17

TO: Agency Secretaries  
Agency Information Officers  
Department Directors  
Department Budget Officers  
Department Chief Information Officers  
Department Accounting Officers  
Department of Finance Budget Staff

FROM: DEPARTMENT OF FINANCE

**Please note the new informational reporting requirement for information technology contracts and contract amendments funded via redirection.**

## Purpose

Pursuant to Control Sections 11.00 and 11.10 of the Budget Act of 2008, certain contracts associated with information technology (IT) projects, statewide software licensing agreements, and associated amendments must be reported to the Legislature. With the exception of informational notifications discussed below, the reporting must be made prior to entering into a contract or agreement that exceeds specific dollar thresholds approved for the project or the statewide software licensing business proposal. Control Section 11.00 and 11.10 reporting allows the Legislature an opportunity to review future funding obligations and enterprise license commitments before they are made.

Control Section 11.00 is the Legislature's means of being informed of contractual agreements that: (1) are under consideration and associated with an IT project, (2) will continue beyond the current and budget years, and (3) may necessitate budget augmentations in **future** years.

Control Section 11.10 is the Legislature's means of being informed of statewide software licensing agreements that: (1) have not been previously approved by the Legislature, and (2) that obligate state funds in the current year or future years, whether or not the obligation will result in a net expenditure or savings. A statewide software licensing agreement is defined as a software license contract that can be used by multiple state agencies.

It is each department's responsibility to determine whether a project or license agreement meets the Control Section 11.00 and/or 11.10 reporting requirements. If the reporting requirements are not clear for any given project or enterprise license agreement, the department should notify the Department of Finance (Finance). After review and approval, Finance will notify the Legislature. Departments should be aware of the possible consequences of entering into a contract without providing such notification when notification is required. If notification is not provided, and the Legislature later determines that notification should have been given, the project or enterprise agreement and its associated funding will be at risk.

## **Reporting Requirements and Applicability Test**

Control Sections 11.00 and 11.10 require Finance approval and 30-day notification to the Joint Legislative Budget Committee and the legislative fiscal committees prior to a state department entering into a contract associated with an IT project, statewide software licensing agreements, or their associated amendments where the following criteria are met:

### **Reporting Requirements for Control Section 11.00**

- 1) The budgeted cost of the project is subject to legislative review now or anytime in the future (i.e., there is a budget action associated with the project); and
- 2) The aggregate cost of the contract(s) increases the approved project cost by \$500,000, or represents a 10 percent project cost increase that equals or exceeds \$100,000, whichever is less; and
- 3) A future year increase in the budgeted cost is required to cover the cost of a contract or contract amendment, and the cost is:
  - a) Not identified in a current year notification/modification submitted to the Legislature (e.g., Section 26.00), or a budget year augmentation submitted to the Legislature (e.g., Finance Letter); or
  - b) Included in one of the documents identified in (a) but the Legislature will not have the opportunity to act on the budget document prior to execution or contract amendment.

Control Section 11.00 reporting criteria apply to any contract or amendment or combination of contracts and amendments associated with an IT project that would result in a total project increase. This is applicable whether the increase occurs in fiscal year 2008-09 or any subsequent fiscal year.

### **Informational Notifications for Contracts and Contract Amendments Funded via Redirection**

Departments are required to submit an **informational** Section 11.00 Application (Exhibit 2) in cases in which Criterion (2) above is met, but the department intends to use redirected resources to cover all increased and future costs of the contract or contract amendment. While the department is not required to delay contract activities until the conclusion of a 30-day notification period, the department must notify Finance as soon as it becomes aware of the intended redirection of resources. Informational Section 11.00 Applications submitted pursuant to this paragraph must clearly identify the source of redirected funds including the specific Item(s) of Appropriation and corresponding amounts in Sections A and D of the Application form.

### **Reporting Requirements for Control Section 11.10**

- 1) The proposed agreement is for a statewide software license that has not been previously approved by the Legislature and that obligates state funds in the current year or future years, whether or not the obligation will result in a net expenditure or savings; and
- 2) The total amount of the proposed agreement or amendment is \$1,000,000 or greater in the aggregate.

In addition, **all** statewide software licensing agreements, regardless of the amount, require business proposals which, at a minimum, must include the following information:

- 1) An analysis of the current installed base to be covered under the statewide software licensing agreement, including the software products, the license type, and the number of users associated with each license;
- 2) Projections of anticipated use over the term of the agreement, including the products to be covered under the agreement, the license type, and the number of users associated with each license. The business proposal must include the assumptions used to develop the projections;

- 3) An analysis of feasible alternatives, including a justification for selecting a statewide software licensing agreement over other alternatives, such as a volume purchase agreement. The justification must include a detailed cost/benefit analysis comparing the proposed statewide software licensing agreement against the alternatives discussed; and,
- 4) A cost allocation methodology and funding plan that explains how costs will be allocated across user departments and identifies the associated funding sources for each entity utilizing the agreement.

Statewide software licensing agreements exceeding the \$1,000,000 Control Section 11.10 reporting threshold require Finance approval of the business proposal. For statewide software licensing agreements and their associated amendments that do not exceed the specified reporting threshold, business proposal approval is delegated to the department. Subsequent amendments that increase the agreement over the \$1,000,000 aggregate threshold require amended business proposals, which must be submitted to Finance for review and approval. In these cases, the department should be prepared to provide copies of prior versions of business proposals prepared under its delegated authority if requested by Finance.

### **Applicability Test**

To determine the applicability of Control Section 11.00 for contract transactions or Control Section 11.10 for statewide software licensing agreements, Applicability Tests are included as Exhibits 1, 1a, and 1b. Each state department is responsible for determining applicability and submitting the necessary information to Finance if the contract transactions meet the reporting requirements of Control Section 11.00 or 11.10.

### **Submittal to Finance**

To report transactions subject to Control Section 11.00, departments are required to complete and submit two copies of the completed Applicability Test (Exhibits 1 and 1a) and two copies of the Section 11.00/11.10 Application (Exhibit 2) to Finance's Information Technology Consulting Unit (ITCU), 915 L Street, Sacramento, CA 95814. The Application form will serve as an attachment to a transmittal letter to the Legislature prepared by Finance following review and approval of the application.

To report transactions subject to Control Section 11.10, submit two copies of the business proposal to Finance's ITCU at the address listed above. Business proposals must be signed by the Department Director (or designee), the Budget Officer, and the Chief Information Officer. Include with the business proposal two copies of the completed Applicability Test (Exhibits 1 and 1b) and two copies of the Section 11.00/11.10 Application (Exhibit 2). The Application form will serve as an attachment to Finance's transmittal letter to the Legislature.

To report transactions subject to both Control Sections 11.00 and 11.10, submit two copies of the business proposal and the completed Applicability Test (Exhibits 1, 1a, and 1b). However, each type of transaction must be reported on a separate Application form (Exhibit 2) (i.e., do not combine Control Section 11.00 and 11.10 reporting on the same Application form). Complete one Application form for each type of transaction, and submit two copies of each Application form with the business proposal and Applicability Test.

The Control Sections 11.00/11.10 Applicability Test and Application forms are available online on the Budget Letter page of the Finance website (<http://www.dof.ca.gov/html/budletr/letters.htm>).

If you have any questions, please contact Richard Gillihan, Chief, Information Technology Operations and Consulting at (916) 445-1777, extension 3223.

/s/ Diana L. Ducay

Diana L. Ducay  
Program Budget Manager

Attachments

**SECTION 11.00/11.10  
APPLICABILITY TEST**

**EXHIBIT 1**

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Are you considering a contract or contract amendment? Is this contract transaction associated with an information technology project or statewide software license agreement? If the answer to both these questions is yes, then you must carefully review the following Applicability Test to determine whether this transaction requires approval by the Department of Finance and 30-day notification to the Legislature under the terms of Control Section 11.00 or 11.10 of the Budget Act.

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- |   |                               |                              |
|---|-------------------------------|------------------------------|
| 1. Is the department subject to Department of Finance review and approval of its budget?  | Yes: <input type="checkbox"/> | No: <input type="checkbox"/> |
| 2. Is the department subject to Section 4810 of the State Administrative Manual? (applies to all state departments, offices, boards, commissions, institutions, and special organizational entities, with the exception of the State Compensation Insurance Fund, the Legislature, and the Legislative Data Center in the Legislative Counsel Bureau) | Yes: <input type="checkbox"/> | No: <input type="checkbox"/> |
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If you answered **NO** to either item #1 or #2, no reporting is required for this contract transaction or statewide software license agreement under Control Sections 11.00 or 11.10 of the Budget Act. You may skip the remainder of this Applicability Test.

If you answered **YES** to **both** items (#1 and #2), your department must comply with either Control Section 11.00 or 11.10. Continue with this Applicability Test.

- |   |                               |                              |
|---|-------------------------------|------------------------------|
| 3. Is funding for this project subject to legislative review now or in the future?  | Yes: <input type="checkbox"/> | No: <input type="checkbox"/> |
| 4. Does the department intend to process a contract or contract amendment in the current fiscal year or budget year that is part of an information technology project?<br><i>[Note: This test is to be applied to the date the contract or contract amendment is executed (date all signatures are obtained), regardless of the fiscal year in which the funding is needed or available.]</i> | Yes: <input type="checkbox"/> | No: <input type="checkbox"/> |
| 5. Does the department intend to process a statewide software license agreement or amendment that has not been previously approved by the Legislature?  | Yes: <input type="checkbox"/> | No: <input type="checkbox"/> |
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If you answered **NO** to item #3 or #4, no formal reporting is required for this contract transaction under Control Section 11.00 of the Budget Act. **However, the department may be required to complete an informational notification (see Exhibit 1a).** If you answered **NO** to item #5, no reporting is required for this transaction under Control Section 11.10 of the Budget Act. You may skip the remainder of this Applicability Test.

If you answered **YES** to items #3 and #4, your department must comply with Control Section 11.00. Complete the Section 11.00 Applicability Test, which follows as Exhibit 1a.

If you answered **YES** to item #5, your department must comply with Control Section 11.10. Complete the Section 11.10 Applicability Test, which follows as Exhibit 1b.

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**SECTION 11.00  
APPLICABILITY TEST**

- 1a. Will the increased budgeted cost of this contract or contract amendment in current year, budget year, and **out-years** be specifically identified in a budget document submitted to the Legislature during the current fiscal year (e.g., Section 26.00, Budget Change Proposal, Finance Letter). Yes: ☐ No: ☐
- 1b. Will the Legislature have the opportunity to act on the budget document prior to contract execution or contract amendment? Yes: ☐ No: ☐

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If you answered **YES** to item #1a and item #1b, no reporting is required for this contract transaction under Control Section 11.00 of the Budget Act. You may skip the remainder of this Applicability Test.

If you answered **NO** to item #1a or **YES** to item #1a and **NO** to item #1b, continue to respond to the following items related to the information technology project associated with the contract or contract amendment. **Note that if the department intends to use redirected resources to cover the increased cost of the contract or contract amendment AND the answer to #13 or #16 below is YES, an informational notification is required.**

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2. What is the total approved project cost in the last Feasibility Study Report (FSR), Special Project Report (SPR) or equivalent document for this project prior to the inclusion of the contract(s) or contract amendment(s) that are the subject of this test? (From this item on, report all costs in **thousands of dollars**.) \$ \_\_\_\_\_

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3. Provide the following identifying information and approval reference data regarding the project:

Project Title and Number: \_\_\_\_\_

OCIO (or previously Finance) approved FSR or SPR	Date: _____
Department-approved (delegated) FSR or SPR	Date: _____

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4. Is this a new contract? Yes: ☐ No: ☐

5. If you answered **YES** to item #4, what is the total amount of this new contract? \$ \_\_\_\_\_

6. What is the total amount of all new contracts associated with this information technology project that have been awarded since the last approved FSR or SPR and for which costs were not included in that approved FSR or SPR? (Do not include the amount identified in item #5) \$ \_\_\_\_\_

7. Is this a contract amendment? Yes: ☐ No: ☐

8. If you answered **YES** to item #7, what is the total amount of this contract amendment? \$ \_\_\_\_\_

9. What is the total increase in the dollar amount contained in all contract amendments for this information technology project that have been agreed to since the last approved FSR or SPR and whose costs were not included in that approved FSR or SPR? (Do not include the amount identified in item #8) \$ \_\_\_\_\_

10. Add the amounts identified in items #5, #6, #8, and #9 and place the total here. \$ \_\_\_\_\_

11. What is the total amount of any reduction in contracts or contract amendments associated with this information technology project that have been canceled or reduced since the last approved FSR or SPR and whose costs were included in that approved FSR or SPR?

\$ \_\_\_\_\_

12. Subtract item #11 from item #10 and place the total here.

\$ \_\_\_\_\_

13. Is the dollar amount from item #12 greater than \$500,000?

Yes: ☐

No: ☐

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If you answered **YES** to item #13, you have determined that your transaction requires approval by the Department of Finance and 30-day notification to the Legislature under Control Section 11.00 of the Budget Act. However, note that if the department intends to use redirected resources to cover the cost of the contract or contract amendment, an informational notification is required. You have completed this Applicability Test for Section 11.00.

If you answered **NO** to item #13, continue with this Applicability Test.

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14. Is the dollar amount from item #12 greater than or equal to \$100,000?

Yes: ☐

No: ☐

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If you answered **NO** to item #14, you have determined no reporting is required for this transaction under Control Section 11.00 of the Budget Act.

15. If the answer to #14 is yes, multiply the total approved project cost from item #2 by 10 percent (0.10).

\$ \_\_\_\_\_

16. Is the dollar amount from item #12 greater than the dollar amount from item #15?

Yes: ☐

No: ☐

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If you answered **YES** to item #16, you have determined that your transaction requires approval by the Department of Finance and 30-day notification to the Legislature under Control Section 11.00 of the Budget Act. However, note that if the department intends to use redirected resources to cover the cost of the contract or contract amendment, an informational notification is required. You have completed this Applicability Test for Section 11.00 applicability.

If you answered **NO** to item #16, you have determined no reporting is required for this transaction under Control Section 11.00 of the Budget Act.

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**SECTION 11.10  
APPLICABILITY TEST**

1. Provide the following identifying information and approval reference data regarding the project:

Business proposal title: \_\_\_\_\_

Finance-approved business proposal

Date: \_\_\_\_\_

2. Is this a new agreement? Yes: ☐ No: ☐
- 3a. If you answered **YES** to item #2, what is the total amount of this new agreement? \$ \_\_\_\_\_
- 3b. If you answered **NO** to item #2, then you are proposing to amend an existing agreement. What is the total amount of the initial agreement and all amendments prior to this amendment? \$ \_\_\_\_\_
- 3c. If you answered **NO** to item #2, what is the total amount of this agreement amendment? \$ \_\_\_\_\_
4. Add the amounts identified in items #3b and #3c and place the total here. \$ \_\_\_\_\_
5. Is the dollar amount from either item #3a or #4 \$1,000,000 or greater? Yes: ☐ No: ☐

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If you answered **YES** to item #5, you have determined that your transaction requires approval by the Department of Finance and 30-day notification to the Legislature under Control Section 11.10 of the Budget Act. You have completed this Applicability Test for Section 11.10.

If you answered **NO** to item #5, you have determined no reporting is required for this transaction under Control Section 11.10 of the Budget Act.

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**Type of Notification: Section 11.00\_\_\_\_\_ Section 11.10\_\_\_\_\_ (Check applicable notification type. Complete one form for each type of notification, i.e., do not combine Section 11.00 and Section 11.10 notifications on the same form.)**

Department of Finance Use Only

<b>APPROVALS:</b>			
ITOC Chief:			Date:
Program Budget Manager:			Date:
Transmitted to Legislature:	Date:	30 days waiver requested:	Yes: <input type="checkbox"/> No: <input type="checkbox"/>

### Section 11.00/11.10 Application Instructions

Enter the Type of Notification, either Section 11.00 or Section 11.10. *Complete one form for each type of notification, i.e., do not combine Section 11.00 and Section 11.10 notifications on the same form.*

- A. Enter the Department Name, Current Date, the Budget Item Number(s), and Fiscal Year.
- B. Enter the Information Technology Project Title or Business Proposal Title/Description for the information technology contracts or contract amendments that are the subject of this Section 11.00 or Section 11.10 Application.

Enter the date of Initial Project Approval (Feasibility Study Report) or business proposal by the State, and the date of the Last Project Amendment Approval (Special Project Report) or business proposal amendment by the State.

Enter the Total Amount of Contracts since the last approval (capture this amount from item #12 on your completed Section 11.00 Applicability Test or items #3a or #4 on your completed Section 11.10 Applicability Test.)

- C. Give a brief Description of the Proposed Change including the necessity and rationale for the proposed contracts or contract amendments.
- D. By funding source (e.g., General Fund, special funds, federal funds, reimbursements, or redirection) indicate the dollar amount of change requested for the Current Year, Budget Year, and the total of all Out Year\* augmentations associated with the information technology contracts or contract amendments that are the subject of this Section 11.00 or Section 11.10 Application. **Note: The dollar amount of change is the net of all new contracts, canceled contracts, or contract amendment increases or decreases.**
- E. Enter the Fiscal Benefits of Change as a result of the contract changes in the Current Year, Budget Year, and the total of all Out Years.\* **Note: The dollar amount of change is the net of all new contracts, canceled contracts, or contract amendment increases or decreases.**
- F. Application must be signed and dated by the Department Director and Department Budget Officer before submittal.

\* Please indicate fiscal year range beginning with Budget year +1 to the end of the contract (e.g., 2010-11 to 2012-13).